



STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:

HEATHER HOLSTEIN,

**Complainant,**

**and**

**PAUL CERVANTES,**

**Respondent.**

**Charge No.: 2009CN2367**

**EEOC No.:** N/A

ALS No.: 10-0224

**Judge William J. Borah**

## RECOMMENDED ORDER AND DECISION

On April 1, 2010, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Heather Holstein. The complaint alleges Respondent, Paul Cervantes, sexually harassed Complainant.

This matter comes to be heard on Respondent's motion to dismiss for want of prosecution. Complainant's response was due on August 6, 2010. Complainant failed to file a response.

## FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. The Complaint in this matter was mailed to Complainant, Heather Holstein, by certified mail.
2. On May 6, 2010, Respondent filed his verified answer.
3. On June 2, 2010, both Complainant and Respondent failed to appear at the initial status hearing as ordered.
4. On June 7, 2010, an order was mailed to the parties setting a status hearing for July 7, 2010, and it warned of either a dismissal or a default order if either one of them failed to appear.

5. On July 7, 2010, Complainant failed to appear for the ordered status hearing. Respondent appeared and was granted leave to file his motion to dismiss on or before July 16, 2010. A briefing schedule was set. On July 7, 2010, the order was mailed to Complainant.

6. On July 13, 2010, Respondent filed his motion to dismiss and mailed it to Complainant. Complainant's response was due on August 6, 2010. Complainant failed to file a response.

#### CONCLUSIONS OF LAW

1. Complainant's failure to participate at two scheduled hearings set for June 2, 2010 and July 7, 2010, and her failure to respond to orders entered have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, the complaint in this matter should be dismissed with prejudice.

#### DISCUSSION

Complainant was given notice of the initial hearing date of June 2, 2010, and she failed to appear. On July 7, 2010, Complainant again failed to appear at the scheduled status hearing. Respondent was permitted to file his motion to dismiss and Complainant failed to comply with the ordered briefing scheduled. Complainant's inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned her claim. As a result, it is appropriate to dismiss her claim with prejudice. See e.g., Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992.

#### RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that the Complaint in this matter and the underlying charge of discrimination be dismissed in their entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
WILLIAM J. BORAH  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: August 12, 2010